

REMARKS

Claims 1-16 are pending in the Application. Claim 2 was cancelled without prejudice or disclaimer, and hence claims 1 and 3-16 are pending.

Claims 2-3 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 4-7 and 11-16 remain rejected under 35 U.S.C. §102(e).

Applicants amended claim 1, as indicated above, to include the claim limitations of claim 2. Hence, the rejections to claims 1, 4-7 and 11-16 are moot. Applicants cancelled claim 2 and incorporated the limitations of claim 2 into claim 1 only to expedite the issuance of claims 1 and 3-16 and not in response to the Examiner's cited art. Applicants reserve the right to file a continuation patent application to capture the subject matter of originally filed claims 1, 4-7 and 11-16.

Further, Applicants amended claims 3 and 8 to be dependent upon claim 1 instead of cancelled claim 2. Hence, claims 1 and 3-16 are allowable. Applicants respectfully request the Examiner to issue a notice of allowance allowing claims 1 and 3-16.

Further, claims 1, 3 and 8 were not amended to overcome prior art. Instead, claim 1 was amended to contain the limitations of claim 2 so that claim 1 would correspond to claim 2 in independent form. Further, claims 3 and 8 were amended so as to not be dependent upon a cancelled claim. Hence, no prosecution history estoppel arises from the amendments to claims 1, 3 and 8. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 1, 3 and 8 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. See *Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

As a result of the foregoing, it is asserted by Applicants that claims 1 and 3-16 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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